



FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Recordkeeping and Disclosure Requirements Associated with Regulation II (Debit Card Interchange Fees and Routing) (FR II; OMB No. 7100-0349).

DATES: Comments must be submitted on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: You may submit comments, identified by *FR II*, by any of the following methods:

- Agency Website: <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/apps/foia/proposedregs.aspx>.
- E-mail: regs.comments@federalreserve.gov. Include OMB number in the subject line of the message.
- FAX: (202) 452-3819 or (202) 452-3102.
- Mail: Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, DC 20551.

All public comments are available on the Board's website at

<http://www.federalreserve.gov/apps/foia/proposedregs.aspx> as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room

146, 1709 New York Avenue, NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452-3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer – Shagufta Ahmed – Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, N.W., Washington, DC 20503, or by fax to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT: A copy of the Paperwork Reduction Act (PRA) OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB’s public docket files, if approved. These documents will also be made available on the Board’s public website at <http://www.federalreserve.gov/apps/reportforms/review.aspx> or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer – Nuha Elmaghrabi – Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452-3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263-4869, Board of Governors of the Federal Reserve System, Washington, DC, 20551.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In

determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

Request for comment on information collection proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

- a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;
- b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;
- c. Ways to enhance the quality, utility, and clarity of the information to be collected;
- d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and
- e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal under OMB delegated authority to extend for three years, without revision, the following information collection:

Report title: Recordkeeping and Disclosure Requirements Associated with Regulation II (Debit Card Interchange Fees and Routing).

Agency form number: FR II.

OMB control number: 7100-0349.

Frequency: On occasion.

Respondents: State member banks, national banks, insured nonmember banks, savings associations, and federally-chartered credit unions.

Estimated number of respondents: Implement policies and procedures, 1 respondent; Review and update policies and procedures, 541 respondents; Annual notification and change in status, 541 respondents.

Estimated average hours per response: Implement policies and procedures, 160 hours; Review and update policies and procedures, 40 hours; Annual notification and change in status, 1 hour.

Estimated annual burden hours: Implement policies and procedures, 160 hours; Review and update policies and procedures, 21,640 hours; Annual notification and change in status, 541 hours.

General description of report: Regulation II, Debit Card Interchange Fees and Routing (12 CFR Part 235), implements, among other things, standards for assessing whether interchange transaction fees for electronic debit transactions are reasonable and proportional to the cost incurred by the issuer with respect to the transaction, as required by section 920(a) of the Electronic Fund Transfer Act (EFTA) (15 U.S.C. 1693o-2(a)).

Regulation II limits the interchange transaction fee that covered issuers can charge for debit card transactions. Under the rule a covered debit card issuer is allowed to receive or charge an amount of no more than 1 cent per transaction for the costs associated with preventing fraudulent electronic debit transactions (“fraud-prevention adjustment”), if the issuer complies with the standards and requirements set forth in the rule. In addition, issuers must retain records demonstrating their compliance with the requirements in Regulation II for at least five years after the end of the calendar year in which the electronic debit transaction occurred, any person or

issuer subject to an investigation or enforcement proceeding involving Regulation II must retain records pertaining to the matter until the final disposition of the matter, unless an earlier time is allowed by court or agency order. The PRA classifies reporting, recordkeeping, or disclosure requirements of a regulation as an information collection.

Legal authorization and confidentiality: Section 920(a)(3) of the EFTA (15 U.S.C. 1693o-2(a)(3)), as added by section 1075 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, authorizes the Board to (1) prescribe regulations regarding interchange transaction fees that an issuer may charge with respect to electronic debit transactions, and to establish standards to assess whether the amount of any such fee is reasonable and proportional; and (2) require any issuer or payment card network to provide the Board such information as deemed necessary. Section 920(a)(5) of the EFTA (15 U.S.C. 1693o-2(a)(5)), further provides that the Board may allow for an adjustment to the interchange transaction fee amount received or charged by an issuer if “(1) such adjustment is reasonably necessary to make allowance for costs incurred by the issuer in preventing fraud in relation to electronic debit card transactions involving that issuer; and (2) the issuer complies with the fraud-related standards established by the Board.” Section 920(a)(5) also provides detailed requirements pertaining to the fraud-related standards to be established by the Board and authorizes the Board to promulgate such standards by rule. In addition, the EFTA (15 U.S.C. 1693o(a) and 1693o-2(d)) authorizes enforcement of compliance with the requirements implemented under the EFTA by the Board for entities that the Board has enforcement authority over under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), which covers member banks (other than national banks), branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and

organizations operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et seq.).

Regulation II's fraud-prevention recordkeeping requirements (12 CFR 235.4(b)) and disclosure requirements (12 CFR 235.4(c) and (d)) are required in order for an issuer to obtain a benefit (i.e., to be eligible to receive or charge the fraud-prevention adjustment). Regulation II's general recordkeeping requirements for issuers (12 CFR 235.8(c)) are mandatory. The records and notifications required under sections 235.4(b)-(d) and 235.8(c) of Regulation II are generally not submitted to the Board or the other federal financial regulatory agencies. Accordingly, normally no confidentiality issues arise under the Freedom of Information Act ("FOIA") (5 U.S.C. 552). In the event such records or notifications are obtained by the Board through the examination or enforcement process, such information may be kept confidential under exemption 8 of the FOIA, which protects information contained in or related to the examination or supervision of a financial institution (5 U.S.C. 552(b)(8)).

Board of Governors of the Federal Reserve System, April 2, 2019.

Michele Taylor Fennell,

Assistant Secretary of the Board.

Billing Code 6210-01-P

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